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Attorneys for Plaintiff, DIRT Environmental Solutions, Inc.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, NORTHERN DIVISION**

DIRTT ENVIRONMENTAL SOLUTIONS,
INC.

Plaintiff,

v.

LANCE HENDERSON, KRISTY
HENDERSON, FALKBUILT, LLC,
FALKBUILT LTD., and FALK
MOUNTAIN STATES, LLC

Defendants.

VERIFIED COMPLAINT

Civil Case No: 1:19-cv-144-DB

District Judge Dee Benson

JURY DEMANDED

DIRTT Environmental Solutions, Inc. ("DIRTT"), by its undersigned counsel, files this
Complaint against Defendants Falkbuilt, LLC, Falkbuilt Ltd. and Falk Mountain States LLC

(collectively “Falkbuilt”), Lance Henderson and Kristy Henderson. As explained in further detail below, former employees of Plaintiff have taken and used DIRT T confidential information in an attempt to steal customers, opportunities, and business intelligence, with the aim of setting up a competing national business. Among other things: (1) Defendant Lance Henderson uploaded over 35 gigabytes of DIRT T data, which included confidential and proprietary information, to a personal cloud-based data storage location; (2) multiple former DIRT T employees, who are now working for or on behalf of Falkbuilt, all set up personal Dropbox accounts within a couple weeks, or even a few days, prior to leaving DIRT T’s employ; (3) Kristy Henderson, Lance Henderson’s wife and an employee of a former DIRT T partner, incorporated Defendant Falk Mountain States one month before Mr. Henderson left DIRT T’s employ; and (4) Amanda Buczynski, also a former DIRT T employee, immediately after her departure from DIRT T reached out to DIRT T customers on behalf of Falkbuilt in an effort to compete on ongoing projects and undercut DIRT T’s bids by utilizing DIRT T confidential information. In support of its Verified Complaint, DIRT T states as follows:

BACKGROUND OF THE PARTIES

1. Plaintiff DIRT T is a Colorado company, with its headquarters and principal place of business in Calgary, Alberta, Canada.

2. DIRT T is an innovative, technology-driven company that operates in Canada, the United States and other jurisdictions around the world. DIRT T’s sales offices in Salt Lake City, Phoenix, New York, Chicago, Calgary, and Toronto are supported by its factories and distribution centers across the United States and Canada.

3. DIRT T offers products and services for the digital design of component, prefabricated construction to build out interior spaces in buildings. Among many other services,

DIRTT offers clients the ability to utilize virtual-reality to design office, healthcare, and other interior spaces using modular components which can be rapidly and affordably assembled in DIRTT's factories and on-site.

4. DIRTT is an innovator and leader in the prefabricated, interior design and construction market space and has been granted over 300 U.S. and foreign patents for the technology in both its building products themselves and the technology to design and fabricate those products.

5. DIRTT is an inventive manufacturing company featuring a proprietary software and virtual-reality visualization platform coupled with vertically integrated manufacturing that designs, configures and manufactures prefabricated interior construction solutions used primarily in commercial spaces across a wide range of industries and businesses. DIRTT combines innovative product design with its industry-leading, proprietary ICE Software ("ICE Software" or "ICE"), and technology-driven, lean manufacturing practices and sustainable materials to provide an end-to-end solution for the traditionally inefficient and fragmented interior construction industry. DIRTT creates customized interiors with the aesthetics of conventional construction, but with greater cost and schedule certainty, shorter lead times, greater future flexibility, and better environmental sustainability than conventional construction.

6. DIRTT offers interior construction solutions throughout the United States and Canada, as well as in select international markets, through a network of independent distribution partners ("Distribution Partners") and an internal sales team. The Distribution Partners use the ICE Software to work with end users to envision and design their spaces. Orders are electronically transmitted through ICE to DIRTT's manufacturing facilities for production,

packing and shipping. DIRTТ's Distribution Partners then coordinate the receipt and installations of DIRTТ's interior construction solutions at the end users' locations.

7. ICE generates valuable proprietary information, including cost and margin information, the components of the bill of materials for individual companies, detailed plans and specifications for projects and customer requirements.

8. Apart from ICE, DIRTТ's internal restricted information and communications network contains other sources of valuable information, including prospective and current customer databases that include information on potential projects as well as the status of all pending projects, and a restricted site for individual-approved users to access called "MyDIRTТ", which contains confidential technical information.

9. When logging into ICE, the authorized user is directed to a statement regarding the confidential and proprietary nature of the ICE information, including specifically identifying the confidential nature of any "compilation" of information regarding a project or customer.

10. In addition to sales and marketing, Distribution Partners provide value throughout the planning, design and installation/construction process. At the pre-construction stage, Distribution Partners provide design assistance services to architects, designers and end clients. Through the installation/construction process, Distribution Partners act as specialty subcontractors to the general contractors and provide installation and other construction services. Post move-in, Distribution Partners provide warranty work, ongoing maintenance and repurposing support. The Distribution Partners operate under Distribution Partner agreements with DIRTТ, which outline sales goals and marketing territories and provide the terms and conditions upon which the Distribution Partners market and sell DIRTТ products.

11. DIRTТ also operates several “DIRTT Experience Centers” (“DXCs”) (previously referred to as “Green Learning Centers”), which are display areas used to showcase DIRTТ’s products and services. DIRTТ generally requires its Distribution Partners to construct and maintain a DXC in their local markets. There are currently over 80 DXCs showcasing DIRTТ’s products and services across North America, the Middle East and India.

12. DIRTТ’s principal place of business is located in Calgary, Alberta, Canada. DIRTТ also conducts aspects of its North American business in other cities, including Salt Lake City, Utah, Chicago, Illinois, New York, New York, and Phoenix, Arizona. It operates manufacturing facilities in Calgary, Alberta, Phoenix, Arizona and Savannah, Georgia. It currently has a manufacturing facility under construction near Charlotte, South Carolina.

13. Mr. Henderson is an individual and a resident of Davis County, Utah.

14. Mr. Henderson was a DIRTТ employee responsible for sales and marketing from at least May 2009 to August 2, 2019 when he departed DIRTТ of his own initiative.

15. Kristy Henderson is an individual and a resident of Davis County, Utah.

16. Falk Mountain States, LLC is a Utah Limited Liability Company incorporated in July 2019 by Kristy Henderson, with an address and registered agent in Logan, Utah.

17. Falkbuilt, LLC is a Texas Limited Liability Company incorporated in July 2019. Falkbuilt was established to emulate DIRTТ’s business model by departed DIRTТ employees, including Mr. Henderson and Mogens Smed.

18. Falkbuilt Ltd. is a Canadian company with offices in Calgary, Alberta, Canada.

19. Until January 2018, Mr. Smed was the Calgary-based CEO of DIRTТ. He subsequently left DIRTТ in September 2018. Pursuant to his obligations as a DIRTТ employee, including fiduciary obligations, and the executive employment agreement signed by him, Mr.

Smed agreed to, among other things, refrain from competing with DIRT T and refrain from soliciting DIRT T employees for a period of two years. Nevertheless, Mr. Smed has done, and continues to do, exactly what he is not permitted to do, namely, establishing a competing business, and soliciting DIRT T employees to leave DIRT T and join his competing business, Falkbuilt. As can be seen from Falkbuilt's website, (www.falkbuilt.com) (advertising interior component construction for healthcare, commercial and office, and education) Falkbuilt competes in the same general market as DIRT T (www.dirtt.com) (advertising projects in education, healthcare, office space, residential, government, and hospitality). Additionally, Falkbuilt's webpages and designs also mimic DIRT T's appearance. To date, over 50 DIRT T employees have joined Falkbuilt. The breach of Mr. Smed's common law employment obligations and express contractual obligations to DIRT T is the subject of ongoing litigation in Alberta, Canada and will be adjudicated by the Canadian courts. This particular action concerns the theft and improper use of DIRT T's confidential information in the United States.

JURISDICTION AND VENUE

20. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, as this action arises under the following federal statutes: 18 U.S.C. § 1836, 18 U.S.C. § 1030 and 18 U.S.C. § 2701. This Court has jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367, as they are so related to the claims within the Court's original jurisdiction that they form part of the same case or controversy. The Court also has jurisdiction over the state law claims pursuant to 28 U.S.C. § 1332 as there is complete diversity and the amount in controversy exceeds the statutory minimum.

21. This Court has personal jurisdiction over Mr. Henderson and Mrs. Henderson because they are residents of Davis County, Utah.

22. This Court has personal jurisdiction over Falk Mountain States, LLC because it is incorporated in Utah.

23. This Court has personal jurisdiction over Falkbuilt, LLC because Falkbuilt, LLC regularly conducts business in the State of Utah, specifically with Falk Mountain States, Mr. Henderson works for Falkbuilt, LLC or on its behalf in the State of Utah, and Falkbuilt, LLC should have reasonably anticipated being hailed into a Utah court over claims based on the DIRTТ confidential information it obtained from Mr. Henderson, a Utah resident.

24. This Court has personal jurisdiction over Falkbuilt Ltd. because Falkbuilt Ltd. regularly conducts business in the State of Utah, specifically with Falk Mountain States, Mr. Henderson works for Falkbuilt Ltd. or on its behalf in the State of Utah, and Falkbuilt Ltd. should have reasonably anticipated being hailed into a Utah court over claims based on the DIRTТ confidential information it obtained from Mr. Henderson, a Utah resident.

25. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) as a substantial portion of the events giving rise to this action occurred in this district, and pursuant to §1391(b)(1) as the Hendersons and Falk Mountain States reside in this district.

FACTUAL BACKGROUND

26. Since his difficult departure from DIRTТ in September 2018, Mr. Smed and those acting in concert with him, including the newly-formed Falk entities, have engaged in an ongoing attempt to replicate DIRTТ's business, products and business model through improper means, including but not limited to utilizing DIRTТ confidential information and trade secrets to identify and approach customers and potential customers, utilizing pricing and margin information to undercut DIRTТ's quotes, and utilizing DIRTТ's patented and trade secret technology to gain an unfair advantage in product offerings.

27. Despite public statements to the contrary by Mr. Smed that Falkbuilt is not a competitor of DIRT, DIRT recently determined, based on a forensic study of electronic information, that Falkbuilt was built upon, and is dependent on, both information and employees obtained from DIRT. (Exhibit O at ¶¶ 6, 9). In fact, Falkbuilt would likely not be operating today but for the customer contact information, pricing, estimates and other DIRT confidential information and trade secrets taken by former DIRT employees, including Mr. Henderson, for use at their new business started by Mr. Smed. Based on information obtained by DIRT, as well as publicly available information, Falkbuilt is directly competing with DIRT.

28. Upon information and belief, Mr. Smed not only actively recruited DIRT employees to join Falkbuilt, including meeting with certain DIRT employees in advance of their leaving DIRT's employ, but also encouraged them to solicit other DIRT employees to work for Falkbuilt. Additionally, on information and belief, Mr. Smed emboldened those same individuals to take with them DIRT information that they utilized while in DIRT's employ, and to misappropriate DIRT's designs and know-how in order to assist Falkbuilt in quickly getting up-to-speed and operational, and to undercut DIRT's bids and estimates, with the end goal of ultimately taking DIRT's customers and projects. It is no coincidence that Falkbuilt is bidding on the same projects as DIRT and contacting DIRT's customers and prospective customers. This conduct also entirely undercuts Mr. Smed's public statements that Falkbuilt is not competing with DIRT.

A. The Hendersons' Utah Conspiracy

29. DIRT hired Mr. Henderson as a sales representative. In that capacity, he was entrusted with a variety of significant confidential and proprietary information and trade secrets pertaining to DIRT's business ("DIRT Confidential Business Information") and owed DIRT a fiduciary duty with respect to such DIRT Confidential Business Information. At the time he

was hired, Mr. Henderson agreed in writing to maintain the confidentiality of DIRTТ's trade secrets and confidential information.

30. In a May 21, 2009 agreement, Mr. Henderson agreed to DIRTТ's terms and conditions regarding his employment, including that he "would not . . . divulge to any other person whosoever and will use [his] best endeavors to prevent unauthorized publication or disclosure of any trade secret, manufacturing process or confidential information concerning the Company and related companies or the finances of the Company and related companies or any of their respective dealings, transactions or affairs which may come to [his] knowledge during or in the course of [his] employment." (Exhibit A).

31. On June 25, 2019, Mr. Henderson acknowledged DIRTТ's Computer/Data Security Policy (Exhibit B), which states in relevant part that:

This document is not intended to displace any non-disclosure obligations, but rather to ensure proper data security. Please read the following provisions carefully and thoroughly before signing.

POLICIES / PROCEDURES

1. Personnel are prohibited from accessing any computer or network location for which they have not previously received proper authorization, and from altering any data or database other than that which is specifically authorized as required in the performance of his or her job functions.

2. Sensitive or confidential data/information may not be stored or referenced via systems or communication channels not controlled by DIRTТ. For example, the use of external e-mail systems or data storage systems not hosted by or approved by DIRTТ, is not allowed.

3. Secure passwords are to be used on all systems as per the DIRTТ password policy. These credentials must be unique and must not be used on other external systems or services. Passwords or security codes are not to be disclosed to anyone else; do not allow others to use your IDs and/or passwords. Password(s) must be changed whenever the need exists; such as someone else learning your password, or the password becoming known during problem resolution or day-to-day functions, or when requested by DIRTТ I.T.

4. DIRT T I.T. is to be notified immediately in the event that a company device is lost. (mobile phones, laptops etc).

5. In the event that a system or process is suspected as not being compliant with this policy, immediately notify your supervisor and/or DIRT T I.T. so they can take appropriate action.

6. Personnel assigned the ability to work remotely must take extra precautions to ensure that data is appropriately handled.

32. Mr. Henderson's responsibilities included interfacing with customers, understanding and promoting DIRT T's products, services, and technology, and identifying new potential customers and partners for DIRT T in the southwestern United States. In connection with his job, Mr. Henderson was provided with extensive access to DIRT T Confidential Business Information concerning those markets.

33. Mr. Henderson was also issued a company laptop with access to DIRT T computer resources, including other networked computers, shared file resources, and other repositories of electronically stored information.

34. Mr. Henderson was not authorized to access, store, or retrieve DIRT T Confidential Business Information other than using DIRT T computers and resources, and then only for bona fide business purposes for the benefit of DIRT T.

35. In May 2019, DIRT T's Human Resources department received an administrative garnishment order from the State of Utah for \$11.3 million, which DIRT T learned was related to Mr. Henderson's 2003 felony securities fraud convictions. (Exhibit C). Until receipt of the garnishment order, DIRT T's then current management team was unaware of Mr. Henderson's felony convictions.

36. Mr. Henderson's crimes were quite serious. According to press accounts of his sentencing, he pled guilty to a number of felony counts involving his stealing between \$6 million

and \$8 million from investors in fraudulent business ventures, ultimately serving time in prison based on his convictions. *See* “Swindler Sentenced,” KSL.com, 6/21/03 (available at <https://www.ksl.com/article/90261/swindler-sentenced>, last retrieved 12/11/19).

37. Press reports of Mr. Henderson’s sentencing hearing note that over 64 known victims, many of them senior citizens, lost their life savings and retirement pensions to Mr. Henderson’s fraudulent scheme. Mr. Henderson was ordered to repay those funds.

38. While Mr. Smed was aware of these convictions while acting as DIRT’s CEO, he nonetheless regularly supported Mr. Henderson in his role at DIRT. In fact, when the local Distribution Partner in Salt Lake City expressed a desire not to work with Mr. Henderson, Mr. Smed arranged for another Distribution Partner in Salt Lake City, Interior Solutions, to work specifically with Mr. Henderson. Importantly, Mr. Henderson’s wife, Defendant Kristy Henderson, was, and is, the branch manager of Interior Solutions’ Salt Lake City office.

39. The receipt of the wage garnishment order by DIRT, of which Mr. Henderson quickly became aware, touched off a series of events for Mr. Henderson and DIRT.

40. In 2019, after Mr. Smed’s departure but before receipt of the wage garnishment order, DIRT’s senior management were considering Mr. Henderson for a promotion.

41. Upon learning about Mr. Henderson’s prior criminal convictions, current DIRT management provided Mr. Henderson a number of opportunities to explain his actions and provide his version of events. During that process, his anticipated promotion was placed on hold.

42. Mr. Henderson apparently determined at that point in time to leave DIRT and return working for his prior supporter, Mr. Smed, at Falkbuilt and to take valuable DIRT Confidential Business Information with him.

43. After DIRTТ received the garnishment order and placed Mr. Henderson's promotion on hold, Mr. Henderson commenced or continued a scheme to misappropriate DIRTТ's confidential and propriety information and trade secrets by uploading DIRTТ Confidential Business Information onto a personal, cloud-based data storage location. There was no legitimate business purpose for this activity.

44. On information and belief, in or around this same time period, Mr. Henderson either made contact or accelerated plans with Mr. Smed and Falkbuilt to assist them in launching a business in Utah to compete with DIRTТ, utilizing DIRTТ Confidential Business Information to do so.

45. The departure of his primary benefactor at DIRTТ, Mr. Smed, coupled with the forthcoming garnishment (which would far exceed Mr. Henderson's DIRTТ salary for over 100 years), likely accelerated Mr. Henderson's plans to misappropriate information from DIRTТ for Mr. Smed's new venture.

46. Starting on Sunday, June 3, 2019, Mr. Henderson began uploading what would ultimately amount to over 35 gigabytes of data¹ from his DIRTТ-issued laptop and account to Google "Google Drive" and/or Apple "iCloud" cloud computing servers.

47. DIRTТ IT staff became aware of the unauthorized access to and exfiltration of information from DIRTТ's systems on June 10, 2019.

48. When confronted by DIRTТ, Mr. Henderson admitted to uploading the data but denied any improper motive, and purported to allow his cloud account to be removed of such data by DIRTТ.

¹ On average, one gigabyte contains 4400 documents, depending on the file type.

49. Further investigation has revealed that, in addition to uploading DIRT Confidential Business Information to a cloud server, Mr. Henderson had also likely mirrored DIRT Confidential Business Information to a personal external hard disk drive, which was not authorized by DIRT.

50. To date, the unauthorized hard disk drive remains unaccounted for. DIRT reasonably believes that Mr. Henderson is in possession of and has access to the unauthorized hard disk drive containing DIRT Confidential Business Information.

51. The files wrongfully taken by Mr. Henderson included materials which he would not have a need or reason to access in his day-to-day employment at DIRT, including design and pricing information and proprietary ICE design files and Standard Factory Net (SFN) price lists for projects which had no connection to his employment at DIRT.

52. The files obtained by Mr. Henderson also included hundreds of design, layout, pricing, and other files regarding projects, regions, and customers far outside of Mr. Henderson's responsibilities at DIRT.

53. The files represent a laundry list of files that would prove extremely helpful in setting up a competing operation at what would become Falkbuilt, LLC, Falkbuilt Ltd. and Falk Mountain States.

54. Examples of the files misappropriated by Mr. Henderson include: (a) specific budget proposals for projects; and (b) ICE files and SFN summaries, which could be used against DIRT in bidding for projects because they contain pricing information, among other valuable data.

55. In the weeks leading up to his departure, Mr. Henderson began separately affirmatively seeking out information from other DIRT employees regarding internal company

processes, particularly pricing, testing, and structural calculations processes under the guise of improving his knowledge of DIRT T company practices for DIRT T's benefit. Mr. Henderson did so despite the fact that he already knew at the time that he would be leaving DIRT T and assisting Falkbuilt in creating a competing business in Utah.

56. Shortly after DIRT T's receipt of the garnishment order, Mr. Henderson indicated that DIRT T should terminate its relationship with Interior Solutions, the company where his wife works. DIRT T then terminated the relationship in a negotiated exit.

57. In her role at Interior Solutions, Kristy Henderson had access to DIRT T Confidential Business Information.

58. In entering into a Regional Partner Agreement with DIRT T, Interior Solutions agreed in March 2018 that it would not "copy, use, disclose or transfer" any DIRT T confidential information. (Exhibit D). The confidential information included ICE files, SFN pricing, ICE quotes, and final approved ICEcad files. Interior Solutions also agreed to adhere to the proprietary license with respect to its use of ICE software.

59. On July 8, 2019, Kristy Henderson, Mr. Henderson's wife, incorporated Falk Mountain States. Kristy Henderson, through her work at Interior Solutions as a DIRT T Regional Partner, possessed significant knowledge about DIRT T's operations.

60. On information and belief, Falk Mountain States was intended to be, and is an affiliate of Falkbuilt, a direct competitor of DIRT T set up by former DIRT T employees. Falk Mountain States' filings with the State of Utah indicate that Falk Mountain States is doing business as "Falkbuilt, Salt Lake City" and "Falkbuilt, St. George".

61. Mr. Henderson resigned from DIRT T effective August 2, 2019 on several weeks' notice.

62. Although Kristy Henderson had already formed Falk Mountain States at the time of his resignation, Mr. Henderson told DIRTТ that he was leaving to launch a construction company with his wife, Kristy Henderson, and to develop some commercial property that had “been in the works” for 15 years. Mr. Henderson never informed anyone at DIRTТ that he was actually going to work for Mr. Smed at Falkbuilt, but instead intentionally misled DIRTТ regarding his plan to begin working for a direct competitor.

63. On August 8, 2019, Mr. Henderson contacted at least one prospective customer of DIRTТ “announcing” his and other former DIRTТ employees’ departures to launch a new competitor to DIRTТ. Mr. Henderson’s email asked the prospective customer to allow the new entity to bid on an existing project with which he was familiar based on his employment with DIRTТ.

64. While still employed by DIRTТ, in direct violation of his fiduciary duties owed to DIRTТ, Mr. Henderson conspired with Kristy Henderson and Falk Mountain States to obtain and misappropriate DIRTТ Confidential Business Information, including trade secrets, to benefit himself, Kristy Henderson, Falkbuilt and Falk Mountain States.

B. Other Efforts to Misappropriate DIRTТ Confidential Business Information

65. The Hendersons are not the only individuals engaged by Mr. Smed and Falkbuilt to gain access to DIRTТ Confidential Business Information.

66. Amanda Buczynski was a DIRTТ employee from October 17, 2016 to September 17, 2019. Ms. Buczynski was responsible for DIRTТ sales in a territory that included Western Pennsylvania and West Virginia. She maintained an office on site at a DIRTТ partner’s facility in Pittsburgh, Pennsylvania.

67. As part of her job responsibilities with DIRT, Ms. Buczynski had access to proprietary databases of customer relationships, pricing, costing, and forecasts accessible only to herself, the CEO, and the COO of DIRT's regional partner.

68. Ms. Buczynski, as part of her employment with DIRT, agreed to a confidentiality agreement which provided, among other things, that she would not "without the prior written consent of DIRT, either during the period of [her] employment or at any time thereafter, disclose or cause to be disclosed any of the Confidential Information in any manner ..." (Exhibit E).

69. Ms. Buczynski also agreed to confidentiality provisions in the DIRT offer letter she executed on September 30, 2016.

70. Ms. Buczynski resigned from DIRT effective September 17, 2019, as with Mr. Henderson, falsely stating to her colleagues that she was not leaving to work for Falkbuilt.

71. On Ms. Buczynski's last day, she plugged a USB device with a serial number that included 4A3BCF57-0 into her DIRT-provided laptop. She also accessed a number of files and folders on her work computer's hard drive related to ongoing DIRT projects. Ms. Buczynski did not possess authorization to undertake any of these acts. (Exhibit F; Exhibit O at ¶ 9).

72. On August 30, 2019, prior to her departure from DIRT, Ms. Buczynski copied over 40 files, including one identified as "PPT 'Large Clients'" to a Dropbox directory/folder. (Exhibit G).

73. In fact, Ms. Buczynski started working on behalf of Falkbuilt immediately following her departure from DIRT.

74. Immediately after her departure from DIRT, Ms. Buczynski reached out to one or more DIRT customers on behalf of Falkbuilt in an effort to compete on ongoing projects and

to underbid DIRTТ by utilizing DIRTТ's Confidential Business Information and information obtained from DIRTТ's partner. (Exhibit H).

75. On information and belief, Ms. Buczynski also worked to advance Falkbuilt's interests to the detriment of DIRTТ by either hiding or sitting on leads that she received in the time leading up to her departure, including inquiries from potential partners interested in working with DIRTТ.

76. Ms. Buczynski has referred to Falkbuilt as the "new DIRTТ" in communications with potential customers, contradicting Falkbuilt's public representations that Falkbuilt is not competing with DIRTТ or building upon DIRTТ technology and information.

77. After submitting her resignation to DIRTТ, Ms. Buczynski also emailed to her personal email account DIRTТ customer contact information, and DIRTТ pricing and estimates. (Exhibit I).

78. Ms. Buczynski's and Mr. Henderson's conduct is part of a pattern of a larger number of former DIRTТ employees solicited by Falkbuilt (*see* Exhibit O at ¶ 9):

(a) On December 28, 2018, Christina Engelbert, while a DIRTТ employee, received an email from Dropbox instructing her to "Complete your Dropbox setup." The email indicated that Ms. Engelbert had created a Dropbox account. Ms. Engelbert left DIRTТ on December 31, 2018 and subsequently went to work for Falkbuilt. (Exhibit J).

(b) On December 29, 2018 Clayton Smed, while a DIRTТ employee, received an email from Dropbox instructing him to "Complete your Dropbox setup." The email indicated that Mr. Smed had created a Dropbox account. Clayton Smed changed the email associated with his Dropbox account from his DIRTТ email to his personal email

on January 14, 2019. Clayton Smed left DIRT on January 31, 2019 and subsequently went to work for Falkbuilt. (Exhibit K).

(c) On January 12, 2019 Laura Shadow, while a DIRT employee, received an email from Dropbox instructing her to “Complete your Dropbox setup.” The email indicated Ms. Shadow had created a Dropbox account. Ms. Shadow left DIRT’s employ on January 31, 2019 and subsequently went to work for Falkbuilt. (Exhibit L).

79. On September 19, 2018, David Weeks sent Mogens Smed a sensitive, confidential DIRT document titled “Typical Headwall Cost Breakdown”. This information constitutes DIRT Confidential Business Information. Mr. Weeks left DIRT on Feb. 28, 2019 and went to work for Mr. Smed at Falkbuilt. (Exhibit M).

80. Ingrid Schoning (who left DIRT on September 15, 2019) forwarded a DIRT confidential document to her Gmail account. This information constitutes DIRT Confidential Business Information. Ms. Schoning now works for Falkbuilt. Ms. Schoning also changed a Dropbox account to associate it with her personal email address on July 23, 2019. (Exhibit N).

81. Defendants are using and have misappropriated DIRT Confidential Business Information and DIRT has reason to believe that Defendants’ actions are ongoing and widespread and directed by Falkbuilt.

82. DIRT seeks all relief available at law and in equity including, but not limited to, preliminary and permanent injunctive relief to restrain Defendants from using or disclosing DIRT Confidential Business Information. DIRT requests injunctive relief to protect itself from irreparable injuries caused by Defendants’ conduct and to prevent further harm. DIRT also seeks an award of compensatory damages, exemplary damages, and attorney’s fees.

83. DIRTТ also seeks expedited discovery. Mr. Henderson and Ms. Buczynski made affirmative efforts to conceal the extent of their actions and DIRTТ requires court process to determine the full scope of their wrongdoing, and of misappropriation and use of DIRTТ Confidential Business Information by other former DIRTТ employees currently employed by or working on behalf of Falkbuilt. Falkbuilt has made public and misleading statements about the nature of its business and has attempted to impede the investigation into its activities. DIRTТ's investigation into misappropriated information is ongoing and incomplete, and has been necessarily frustrated by misrepresentations made by Mr. Henderson, Ms. Buczynski, and Falkbuilt as to the nature, scope and use of misappropriated material.

C. DIRTТ Confidential Business Information Constitutes Trade Secrets

84. DIRTТ's manufacturing approach is built on a foundation of technology, the center of which is the proprietary ICE Software. DIRTТ uses ICE Software to design, visualize, configure, price, communicate, engineer, specify, order and manage projects. The ICE Software was developed in or around 2005 as a custom interior design and construction software solution to integrate into DIRTТ's offerings. The ICE Software makes manufactured, fully custom interiors both feasible and profitable while addressing challenges associated with traditional construction, including cost overruns, inconsistent quality, delays and significant material waste. The ICE Software is used throughout the sales process, ensuring consistency across DIRTТ's services and products received by all of DIRTТ's clients.

85. DIRTТ begins manufacturing custom DIRTТ products once a file (an "ICE File") is generated and a purchase order is received. The ICE Software allows an entire project to be tracked and managed across the entire production cycle through design, sales, production, delivery and installation. The ICE File (containing a project's engineering and manufacturing

data) generated during the design and specification process can be used for optimizing future reconfigurations, renovations, technology integration initiatives and changes to a client's space.

86. The ICE Software is licensed to unrelated companies and Distribution Partners of DIRT, but only for certain limited information and only if the parties agree to be bound by a confidentiality agreement.

87. DIRT's proprietary ICE Software is among a body of DIRT's valuable intellectual property. The ICE Software is subject to a number of patents in Canada, the United States, Europe and Singapore. DIRT also has a number of trademark and copyright protections.

88. ICE files generated by ICE software contain proprietary costing information that would be of substantial benefit to a competitor seeking to undercut DIRT on price. Costing is a closely-guarded secret at DIRT for this reason, and because of the substantial efforts utilized to generate it.

89. In addition to the ICE Software, during their employment with DIRT, Mr. Henderson and Ms. Buczynski had access to DIRT Confidential Business Information, including but not limited to:

- (a) DIRT's job costing;
- (b) DIRT's customer, supplier and Distribution Partner contacts and list of prospects and projects;
- (c) DIRT's sales figures and projections;
- (d) DIRT's customer presentations and marketing materials;
- (e) DIRT's marketing and sales strategies;
- (f) DIRT's customer, supplier and Distribution Partner order histories, needs, and preferences;
- (g) DIRT's customer proposals, service agreements, contracts and purchase orders;

- (h) DIRT's plans to expand and target new clients and markets;
- (i) design specifications and drawings of DIRT products;
- (j) specialized methods and processes used to create custom prefabricated modular interior wall partitions, other ocular interior components and other DIRT products;
- (k) research and development of new DIRT products;
- (l) trade secrets and intellectual property strategy, including the ICE Software and ancillary programs;
- (m) strategic plans and business plans; and
- (n) such further and other confidential and proprietary information as may be proven at trial.

This information comprises DIRT Confidential Business Information.

90. DIRT devotes significant resources to developing DIRT Confidential Business Information.

91. DIRT Confidential Business Information constitutes trade secrets of DIRT. It is vital to DIRT's business success and enables it to compete effectively in an extremely competitive marketplace. DIRT takes reasonable measures to protect and maintain the confidentiality of DIRT Confidential Business Information, including the measures described above.

92. DIRT derives substantial economic value from maintaining the secrecy of its DIRT Confidential Business Information, including, among other things, its pricing, its customer, prospect and supplier information, its sales figures and projections, its marketing and sales strategies, its technical-know-how, its design specifications, and its strategic and business plans. Any of this information would be immensely valuable to a competitor, and a global theft of the information would allow a competitor to bid against DIRT on projects. DIRT has

incurred significant costs and expenses developing its DIRT Confidential Business Information.

93. DIRT Confidential Business Information, including, among other things, pricing, its customer, prospect and supplier information, its sales figures and projections, its marketing and sales strategies, its design specifications, and strategic and business plans, is neither generally known, nor is it readily ascertainable, to the general public, to DIRT's competitors, or to any other person or entity that could obtain value from such information.

94. DIRT takes reasonable measures to protect and maintain the secrecy of its DIRT Confidential Business Information, including, among other things, its pricing, its customer, prospect and supplier information, its sales figures and projections, its marketing and sales strategies, its design specifications, and its strategic and business plans.

95. DIRT limits access to DIRT Confidential Business Information, and requires network passwords to access DIRT Confidential Business Information on DIRT's computers, confidential agreements, warranty on ICE Software, and partner confidentiality agreements. DIRT also has policies and procedures in place governing the access to and use of DIRT Confidential Business Information, including efforts described above to identify attempts to improperly transfer DIRT Confidential Business Information.

**COUNT I - VIOLATION OF UTAH UNIFORM TRADE SECRETS ACT
(Utah. Code § 13-24-1 *et seq.*)(Against All Defendants)**

96. The allegations contained in the preceding paragraphs set forth above are incorporated as if fully set forth herein.

97. The Utah Uniform Trade Secrets Act ("UTSA") provides a private right of action for misappropriation of trade secrets.

98. A “trade secret” is defined as “information, including a formula, pattern, compilation, program, device, method, technique, or process, that: (a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” Utah. Code § 13-24-2.

99. The term “misappropriation” includes “(a) acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or (b) disclosure or use of a trade secret of another without express or implied consent by a person who: (i) used improper means to acquire knowledge of the trade secret; or (ii) at the time of disclosure or use, knew or had reason to know that his knowledge of the trade secret was: (A) derived from or through a person who had utilized improper means to acquire it; (B) acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or (C) derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or (iii) before a material change of his position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake.” Utah. Code § 13-24-2.

100. The term “improper means” includes “theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means.” Utah. Code § 13-24-2.

101. While a DIRT employee, Mr. Henderson had access to DIRT’s trade secrets, including confidential customer and account information, such as marketing strategies and techniques, marketing and development plans for client contact information, price lists, specific

contract pricing and payment histories. Such information gives DIRTТ a commercial competitive advantage and derives economic value from not being generally known to and not readily ascertainable by the public or any person who can obtain economic value from its disclosure or use.

102. As a DIRTТ employee, Mr. Henderson was aware of the confidential nature of DIRTТ's trade secrets and agreed to ensure the continued confidentiality of such information as set forth above.

103. As a DIRTТ employee, Mr. Henderson was also aware that DIRTТ placed confidence in him to maintain the confidentiality of DIRTТ's trade secrets at least through the confidentiality agreement he signed.

104. At all relevant times, DIRTТ made, and continues to make, reasonable efforts to maintain the secrecy of DIRTТ's trade secrets, by, among other things, requiring Mr. Henderson to sign a confidentiality agreement in connection with his employment.

105. In violation of his duty to refrain from using or disclosing DIRTТ's trade secrets, Mr. Henderson, on his own and as part of a conspiracy with all other Defendants, misappropriated DIRTТ's trade secrets, including but not limited to, confidential and proprietary customer account information, marketing data and analysis, customer histories and payment histories, including marketing information and hundreds of DIRTТ files and folders.

106. Defendants' violations of the Utah Uniform Trade Secrets Act caused DIRTТ substantial damage. Among other things, DIRTТ was required to hire attorneys and computer forensic experts to investigate and attempt to mitigate Defendants' misappropriation of DIRTТ's trade secrets.

107. DIRTТ also suffered damage as a result of the loss or diminishment of value of DIRTТ Confidential Business Information and other confidential and proprietary information, and diminishment of business value and competitive standing.

108. In addition to Mr. Henderson, Falkbuilt, LLC, Falkbuilt Ltd., Falk Mountain States, and Kristy Henderson are directly liable for violations of the Utah Uniform Trade Secrets Act because they actively participated, through their conspiracy with each other and Mr. Henderson, in misappropriating DIRTТ's trade secrets.

109. Falkbuilt, LLC, Falkbuilt Ltd. and Falk Mountain States are also directly liable for violations of the Utah Uniform Trade Secrets Act because they acquired DIRTТ trade secret information through its agents, Mr. Henderson and Kristy Henderson, knowing that such information was obtained by improper means, including violations of Mr. Henderson's explicit and implied duties of confidentiality.

110. Falkbuilt, LLC, Falkbuilt Ltd., Falk Mountain States, Mr. Henderson, and Kristy Henderson are each liable for violations of the Utah Uniform Trade Secrets Act because they used DIRTТ trade secrets (which include DIRTТ Confidential Business Information) without express or implied permission from DIRTТ, and Falkbuilt, LLC, Falkbuilt Ltd., Falk Mountain States, and Kristy Henderson knew or had reason to know that Mr. Henderson had acquired DIRTТ's trade secrets under circumstances giving rise to a duty to maintain their secrecy or limit their use; and had divulged DIRTТ's trade secrets when he owed a duty to DIRTТ to maintain their secrecy or limit their use.

111. DIRTТ has been and continues to be injured irreparably by Defendants' misappropriations of its trade secrets.

**COUNT II – FEDERAL DEFEND TRADE SECRETS ACT (18 U.S.C. § 1836)
(Against All Defendants)**

112. The allegations contained in the preceding paragraphs set forth above are incorporated as if fully set forth herein.

113. The Federal Defend Trade Secrets Act provides a private right of action for an “owner of a trade secret that is misappropriated . . . if the trade secret is related to a product or service used in, or intended for use in, interstate or foreign commerce.” 18 U.S.C. § 1836(b)(1).

114. A “trade secret” means:

all forms and types of financial, business, scientific, technical, economic or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically or in writing if (A) the owner thereof has taken reasonable measures to keep such information secret; and (B) the information derives independent economic value, actual or potential, from not being known to, and not being readily ascertainable through proper means by, another person who can obtain economic value from the disclosure or use of the information.

18 U.S.C. § 1836(3).

115. The term “misappropriation” includes the “disclosure or use of a trade secret of another without express or implied consent by a person who . . . at the time of disclosure or use, knew or had reason to know that the knowledge of the trade secret was . . . derived from or through a person who owed a duty to the person seeking relief to maintain the secrecy of the trade secret.” 18 U.S.C. § 1839(5)(B)(ii)(III).

116. The term “improper” includes “breach of a duty to maintain secrecy . . .” 18 U.S.C. § 1839(6).

117. DIRT Confidential Business Information is a “trade secret” under the Federal Defend Trade Secrets Act because it comprises confidential and proprietary customer

information, including marketing plans, strategies and data, artwork, financial information, customer information, account histories and other information which DIRTТ takes reasonable measures to maintain secret.

118. Such information derives independent economic value because it provides DIRTТ with a commercial competitive advantage from not being known to, and not being readily ascertainable through proper means by, another person who can obtain economic value from the disclosure or use of the information.

119. The DIRTТ trade secrets misappropriated by Defendants are used in interstate commerce to bid for, design, and construct projects throughout the United States.

120. As a DIRTТ employee, Mr. Henderson had contractual and fiduciary duties to maintain the secrecy of DIRTТ's trade secrets and not misappropriate the information for his own use or for the use of DIRTТ's competitors.

121. At all relevant times, Mr. Henderson was aware of the duty to maintain the secrecy of DIRTТ's trade secrets and not misappropriate such information for his own use or for the use of DIRTТ's competitors.

122. In violation of this duty, Mr. Henderson misappropriated DIRTТ's trade secrets, marketing data and analyses, customer histories and payment histories, by taking such information without DIRTТ's express or implied consent.

123. Defendants' violations of the Federal Defend Trade Secrets Act caused DIRTТ substantial damage. Among other things, DIRTТ was required to hire attorneys and computer forensic experts to investigate and attempt to mitigate Defendants' misappropriation of DIRTТ's trade secrets.

124. DIRTТ also suffered damage as a result of the loss or diminishment of value of DIRTТ's trade secrets, and diminishment of business value and competitive standing.

125. In addition to Mr. Henderson, Falkbuilt, LLC, Falkbuilt Ltd., Falk Mountain States, and Kristy Henderson are directly liable for violations of the Defend Trade Secrets Act because they actively participated, through their conspiracy with other Defendants in misappropriating DIRTТ's trade secrets.

126. Falkbuilt, LLC, Falkbuilt Ltd. and Falk Mountain States are also directly liable for violations of the Defend Trade Secrets Act because they acquired DIRTТ trade secret information through its agents, the Hendersons, knowing that such information was obtained by improper means, including violations of Mr. Henderson's explicit and implied duties of confidentiality.

127. Falkbuilt, LLC, Falkbuilt Ltd., Falk Mountain States, Mr. Henderson, and Kristy Henderson are liable for violations of the Defend Trade Secrets Act because they used DIRTТ trade secrets without express or implied permission from DIRTТ and Falkbuilt, LLC, Falkbuilt Ltd., Falk Mountain States, and Kristy Henderson knew or had reason to know that Mr. Henderson had acquired the DIRTТ trade secrets under circumstances giving rise to a duty to maintain their secrecy or limit their use; and had divulged DIRTТ trade secrets when he owed a duty to DIRTТ to maintain their secrecy or limit their use.

COUNT III – BREACHES OF CONTRACTS
(Against Mr. Henderson)

128. The allegations contained in the preceding paragraphs set forth above are incorporated as if fully set forth herein.

129. Mr. Henderson owed contractual duties to DIRTТ based on his May 21, 2009 agreement to DIRTТ's terms and conditions, and his June 25, 2019 execution of DIRTТ's Computer/Data Security policy.

130. On information and belief, Mr. Henderson breached his obligations under the May 21, 2009 agreement by failing to prevent unauthorized publication and disclosure of (a) any trade secret, manufacturing process or confidential information concerning DIRTТ, and (b) the finances of DIRTТ and respective dealings, transactions or affairs of which Mr. Henderson was familiar during his employment.

131. For example, Mr. Henderson has used his knowledge of DIRTТ dealings with customers and prospective customers for the benefit of Falkbuilt and himself.

132. On information and belief, Mr. Henderson has also damaged DIRTТ by publishing and disclosing to Falkbuilt, DIRTТ's competitor, DIRTТ Confidential Business Information, including confidential electronic information, copied from DIRTТ's computers and systems before his departure.

133. On information and belief, Mr. Henderson breached his obligations under the June 25, 2019 DIRTТ Computer/Data Security Policy by (a) storing information on systems and channels not controlled by DIRTТ (e.g., cloud computing services and a personal hard drive), and (b) accessing DIRTТ computer or network locations and resources for which he was not previously authorized (e.g. projects outside of his market area, which on information and belief were accessed to benefit Falkbuilt).

**COUNT IV – VIOLATION OF PENNSYLVANIA UNIFORM TRADE SECRETS ACT
(12 P.S. § 5302) (Against Falkbuilt, LLC and Falkbuilt Ltd.)**

134. The allegations contained in the preceding paragraphs set forth above are incorporated as if fully set forth herein.

135. The Pennsylvania Uniform Trade Secrets Act (“PUTSA”) provides a private right of action for misappropriation of trade secrets.

136. A “trade secret” is defined as “information, including a formula, pattern, compilation, program, device, method, technique, or process, that: (1) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” 12 P.S. § 5302.

137. The term “misappropriation” includes “(a) acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or (b) disclosure or use of a trade secret of another without express or implied consent by a person who: (i) used improper means to acquire knowledge of the trade secret; or (ii) at the time of disclosure or use, knew or had reason to know that his knowledge of the trade secret was: (A) derived from or through a person who had utilized improper means to acquire it; (B) acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or (C) derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or (iii) before a material change of his position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake.” 12 P.S. § 5302.

138. The term “improper means” includes “theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means.” 12 P.S. § 5302.

139. While a DIRTТ employee, Ms. Buczynski, working from Pennsylvania at the time, had access to DIRTТ's trade secrets, including DIRTТ Confidential Business Information, including confidential customer and account information, such as marketing strategies and techniques, marketing and development plans for client contact information, price lists, specific contract pricing and payment histories. Such information derives economic value because it gives DIRTТ a commercial competitive advantage from not being generally known to and not readily ascertainable by the public or any person who can obtain economic value from its disclosure or use.

140. As a DIRTТ employee, Ms. Buczynski was aware of the confidential nature of DIRTТ's trade secrets and agreed to ensure the continued confidentiality of such information.

141. As a DIRTТ employee, Ms. Buczynski was also aware that DIRTТ placed confidence in her to maintain the confidentiality of DIRTТ's trade secrets.

142. At all relevant times, DIRTТ made, and continues to make, reasonable efforts to maintain the secrecy of DIRTТ Confidential Business Information, by, among other things, requiring Ms. Buczynski to sign a confidentiality agreement.

143. In violation of her duty to refrain from using or disclosing DIRTТ's trade secrets, Ms. Buczynski, on her own and as part of a conspiracy with Falkbuilt, misappropriated DIRTТ's trade secrets.

144. Falkbuilt, LLC's and Falkbuilt Ltd.'s violations of the Pennsylvania Uniform Trade Secrets Act caused DIRTТ substantial damage. Among other things, DIRTТ was required to hire attorneys and computer forensic experts to investigate and attempt to mitigate Falkbuilt's misappropriation of DIRTТ Confidential Business Information.

145. DIRTТ also suffered damage as a result of the loss or diminishment of value of DIRTТ Confidential Business Information and other confidential and proprietary information, and diminishment of business value and competitive standing.

146. Falkbuilt, LLC and Falkbuilt Ltd. are directly liable for violations of the Pennsylvania Uniform Trade Secrets Act because they actively participated with Ms. Buczynski in misappropriating DIRTТ's trade secrets.

147. Falkbuilt, LLC and Falkbuilt Ltd. are also directly liable for violations of the Pennsylvania Uniform Trade Secrets Act because they acquired DIRTТ trade secret information through its agent, Ms. Buczynski, knowing that such information was obtained by improper means, including violations of Ms. Buczynski's explicit and implied duties of confidentiality.

148. Falkbuilt, LLC and Falkbuilt Ltd. are liable for violations of the Pennsylvania Uniform Trade Secrets Act because they used DIRTТ trade secrets without express or implied permission from DIRTТ and Falkbuilt, LLC and Falkbuilt Ltd. knew or had reason to know that Ms. Buczynski had acquired the DIRTТ trade secrets under circumstances giving rise to a duty to maintain their secrecy or limit their use; and had divulged DIRTТ's trade secrets when she owed a duty to DIRTТ to maintain their secrecy or limit their use.

149. DIRTТ has been and continues to be injured irreparably by Falkbuilt, LLC's and Falkbuilt Ltd.'s misappropriations of DIRTТ's trade secrets.

PRAYER FOR RELIEF

WHEREFORE, DIRTТ respectfully requests the following relief against Defendants:

- a. Enter judgment for it and against all Defendants on Counts I and II, against Mr. Henderson on Count III, and against Falkbuilt, LLC and Falkbuilt Ltd. on Count IV;
- b. Enter a preservation order preventing the destruction of documents, an order that is necessary in light of the repeated taking and secretive access;

- c. Enter preliminary and permanent injunctions restraining and enjoining each Defendant, and all persons and entities in active concert with any of them, from disclosing, using or misappropriating any of DIRTТ's trade secrets;
- d. Enter a mandatory injunction requiring each Defendant, and all persons and entities in active concert with any of them, to return to DIRTТ any and all written materials, including copies thereof, and/or flash drives, thumb drives, external hard drives, USB storage drives, computer disks, diskettes, databases and/or other retrievable data which reflect, refer, or relate to DIRTТ Confidential Business Information, and any copies that are in Defendants' possession, custody, or control;
- e. Order each Defendant, and all persons and entities in active concert with any of them, to provide a full accounting as to the whereabouts of all of DIRTТ's trade secrets, DIRTТ Confidential Business Information and other DIRTТ property in their possession, custody, or control (including information on the personal cloud drives of Defendants' employees);
- f. Enter judgment that Defendants are jointly and severally liable to DIRTТ for its actual damages for losses resulting from Defendants' misappropriation of DIRTТ's trade secrets, including but not limited to lost profits proximately caused by Defendants' misappropriation, or in the alternative, a reasonable royalty for Defendants' misappropriation of DIRTТ's trade secrets in violation of the Utah Uniform Trade Secrets Act and/or Federal Defend Trade Secrets Act;
- g. Enter judgment that Defendants are jointly and severally liable to DIRTТ for disgorgement of all compensation paid to Mr. Henderson by DIRTТ during and after his breaches, and disgorgement of any and all profits Defendants earned as a result of the misappropriation of DIRTТ's trade secrets in violation of the Utah Uniform Trade Secrets Act and/or Federal Defend Trade Secrets Act;
- h. Enter judgment that Defendants are jointly and severally liable to DIRTТ for exemplary damages for Defendants' willful, wanton or reckless disregard of DIRTТ's rights under the Utah Uniform Trade Secrets Act and/or Federal Defend Trade Secrets Act;
- i. Enter judgment that Defendants are jointly and severally liable to DIRTТ for DIRTТ's attorneys' fees for Defendants' willful, wanton or reckless disregard of DIRTТ's rights under the Utah Uniform Trade Secrets Act and/or Federal Defend Trade Secrets Act;
- j. Enter judgment that Falkbuilt, LLC and Falkbuilt Ltd. are jointly and severally liable to DIRTТ for its actual damages for losses resulting from their misappropriation of DIRTТ's trade secrets, including lost profits proximately caused by Falkbuilt, LLC's and Falkbuilt Ltd.'s misappropriation of DIRTТ's trade secrets, or, in the alternative, a reasonable royalty for their misappropriation

of DIRT's trade secrets in violation of the Pennsylvania Uniform Trade Secrets Act;

- k. Enter judgment that Falkbuilt, LLC and Falkbuilt Ltd. are jointly and severally liable to DIRT for disgorgement of all compensation paid to Ms. Buczynski by DIRT during and after her breaches, and disgorgement of any and all profits Falkbuilt, LLC and Falkbuilt Ltd. earned as a result of the misappropriation of DIRT's trade secrets in violation of the Pennsylvania Uniform Trade Secrets Act;
- l. Enter judgment that Falkbuilt, LLC and Falkbuilt Ltd. are jointly and severally liable to DIRT for exemplary damages for their willful, wanton or reckless disregard of DIRT's rights under the Pennsylvania Uniform Trade Secrets Act;
- m. Enter judgment that Falkbuilt, LLC and Falkbuilt Ltd. are jointly and severally liable to DIRT for DIRT's attorneys' fees for their willful, wanton or reckless disregard of DIRT's rights under the Pennsylvania Uniform Trade Secrets Act;
- n. Enter judgment that Mr. Henderson is liable to DIRT for its actual damages and losses resulting from Mr. Henderson's breaches of contracts; and
- o. Award such other and further relief that this Court determines to be just and proper under the circumstances.

Dated: December 11, 2019

DIRT ENVIRONMENTAL SOLUTIONS, INC.
Plaintiff,

By: /s/ Chad E. Nydegger
One of Its Attorneys

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